

Sam Fousek
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FILED
U.S. BANKRUPTCY CT.
NEW ALBANY DIVISION

2013 MAY 16 PM 12:16

SOUTHERN DISTRICT
OF INDIANA
KEVIN R. DEMPSEY
CLERK

May 9, 2013

Clerk of the United States Bankruptcy Court
Southern District of Indiana
New Albany Division
110 U.S. Courthouse
121 West Spring Street
New Albany, IN. 47150

To Whom It May Concern,

I, Mr. Fousek, object to the amount of \$95000.00, which you are claiming I owe. All the money owed for the cattle received was paid to Superior Livestock and Belle Fouche Sale Barn. We were suppose to receive a contract from Eastern Livestock Co. LLC to repurchase the cattle which Eastern Livestock Co. LLC failed to honor.

The money owed to Fousek Trucking Inc. for trucking is \$97644.47. The amount owed for trucking should have been paid when the cattle were delivered. Fousek Trucking Inc. did the trucking which Eastern Livestock Co. LLC had requested. Therefore, Fousek Trucking Inc. should be paid in full for their business.

Siincerely,



Sam Fousek

☒ ENVELOPE NOT PROVIDED
☒ COPIES NOT PROVIDED

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

In re:) Chapter 11
)
EASTERN LIVESTOCK CO., LLC,) Case No. 10-93904-BHL-11
)
Debtor.)

**TRUSTEE'S OBJECTION TO CLAIM 232 FILED BY SAM FOUSEK
AND NOTICE OF RESPONSE DEADLINE**

James A. Knauer, the chapter 11 trustee appointed in this case ("Trustee"), pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), hereby objects (this "Objection") to claim 232 (the "Claim")¹ filed by Sam Fousek ("Mr. Fousek"). The Trustee requests that the Court enter an order denying and expunging the Claim in its entirety. In support of this Objection, the Trustee respectfully states:

Jurisdiction

1. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(B). Venue of this proceeding and this Objection is properly in this district pursuant to 28 U.S.C. §§ 1408 and 1409.
2. The statutory bases for the relief requested herein are 11 U.S.C. §§ 502, 506 and 507 and Rules 3001 and 3007 of the Bankruptcy Rules.

Background

3. On December 6, 2010 (the "Petition Date"), an involuntary chapter 11 bankruptcy petition was filed to commence a chapter 11 case (the "Chapter 11 Case") against

¹ All references herein to the claim number are to the number assigned to the Claim by BMC (see paragraph 5 below) and not to the number, if any, assigned to the Claim by the Court's online claims register. For further explanation, see paragraph 5 below.

Eastern Livestock Co., LLC ("Debtor") in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division (the "Court").

4. On December 27, 2010, the Court entered an order approving the appointment of the Trustee and on December 28, 2010, entered an order for relief.

5. On March 17, 2011, the Court entered an order approving The BMC Group, Inc. ("BMC") as the Trustee's claims and noticing agent in the Chapter 11 Case. Pursuant to that order, BMC was authorized and directed to, among other things, maintain the official claims register ("Claims Register") for all filed proofs of claim in the Chapter 11 Case. A copy of that Claims Register and all filed proofs of claim in the Chapter 11 Case can be viewed at <http://www.bmcgroup.com/restructuring/Claims.aspx?ClientID=271>.

6. The Court entered an order confirming the *Trustee's First Amended Chapter 11 Plan of Liquidation* [Dock. No. 1490] (the "Plan") on December 17, 2012, and the Plan became effective on December 20, 2012. *See* Dock. No. 1675.

7. Pursuant to the Plan, the deadline for claim objections is April 19, 2013.

Request for Relief

8. By this Objection, the Trustee seeks entry of an order denying and expunging the Claim in its entirety.

9. The Claim asserts an unsecured claim in the amount of \$97,644.47. However, the claim attaches a statement of account for Fousek Trucking, Inc., not Mr. Fousek. The statement of account lists amounts not payable by Debtor. Debtor's books and records do not list any account payable to Mr. Fousek but instead indicate that Mr. Fousek owes the Debtor's estate in excess of \$95,000. The Trustee may file an adversary complaint to collect obligations owed by Mr. Fousek to Debtor.

10. The Trustee therefore objects to the Claim and requests that the Claim be disallowed and expunged in its entirety.

Notice of Response Deadline

11. If Mr. Fousek wishes to contest the relief requested in this Objection, Mr. Fousek must file a response with the Court within thirty (30) days of the service of this Objection ("Response Deadline"). Responses must be filed with the Clerk of the United States Bankruptcy Court, Southern District of Indiana, New Albany Division, 110 U.S. Courthouse, 121 West Spring Street, New Albany, IN 47150 no later than 4:30 p.m. EDT on the Response Deadline and served on Trustee's Counsel, Faegre Baker Daniels LLP, 300 N. Meridian Street, Suite 2700, Indianapolis, IN 46204 (Attn: Dustin DeNeal). **IF NO RESPONSE IS FILED BY THE RESPONSE DEADLINE THE COURT MAY SUSTAIN THE OBJECTION TO THE CLAIM WITHOUT FURTHER NOTICE OR HEARING.**

WHEREFORE, the Trustee respectfully requests that the Court enter an Order disallowing and expunging the Claim in its entirety and granting the Trustee all other just and appropriate relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

Counsel for James A. Knauer, Chapter 11 Trustee

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CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on April 19, 2013, a copy of the foregoing pleading was mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

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/s/ Dustin R. DeNeal